IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

CHARTERED ACCOUNTANT REFERENCE CASE NO.2 OF 2003

Council of the Institute of Chartered
Accountants of India
Indraprastha Marg, New Delhi. ..Petitioner

v/s.

Shri Raj Kumar N. Iyer,
Chartered Accountant,
No.6, Satya Deep,
114/B, Dr.Ambedkar Road,
Mulund West,
Mumbai-400 080. .. Respondent

Dr.Virendra Tulzapurkar, senior counsel with Ms.S.Srikrishna i/by M/s.Kanga & Co. for petitioner.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 18th October, 2004

ORAL JUDGMENT (Per R.M.Lodha, J.)

The respondent is a member of the Institute of Chartered Accountants of India. There were allegations against him that he gave false certificates in Forms 3CB & 3CD despite the non-completion of audit in order to save his client from the proceedings of penalty under section 271 B of Income Tax Act. The respondent was charged of the professional misconduct within the meaning of Clauses (7) and (8) of Part-I of second schedule of Chartered Accountants Act, 1949 (for short 'Act of 1949'). The copy of the complaint was sent to the

respondent and his comments were invited thereto. The Council of the Institute of Chartered Accountants ('the Council') prima facie found the case of misconduct against the respondent and referred the matter to the Disciplinary Committee.

2. During the cause of enquiry before the Disciplinary Committee, the respondent admitted his guilt. The Disciplinary Committee held that the misconduct within the meaning of Clause (7) of Part I of second schedule was not made out against the respondent but the misconduct under Clause (8) of Part I of second schedule to the Act of 1949 was established and the report was accordingly, forwarded to the Council.

3. The Council after giving opportunity of being heard to the respondent, concurred with the finding of the Disciplinary Committee and has recommended to this court that the respondent be reprimanded. This is how this reference under section 21(5) of the Act of 1949 has been placed before us.

4. We heard Dr.Virendra Tulzapurkar, the learned senior counsel for the Institute of Chartered Accountants of India and considered the material available on record. Despite service, the respondent has not chosen to appear. The

respondent admitted his guilt before the Disciplinary Committee. There is nothing on record that the respondent was accused of professional misconduct in past. Having admitted the guilt, we are of the view, the respondent deserves lenient punishment.

5. We, accordingly, accept the recommendation of the Council and reprimand the respondent.

6. Reference is disposed of accordingly.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)